

Remarks

Claims 1-20 were in the application as filed. Claims 5, 9, 16, 19, and 20 are amended to correct typographical or grammatical errors. No other claim amendments are made. No new matter is added to the claims, drawings, or to the specification. Further consideration and examination is respectfully requested.

Rejections under 35 U.S.C. §102

Claims 1-2, 5, 7-9, 11-13, and 16-20 stand rejected as being anticipated by U.S. Patent No. 6,182,933 to Rapp. The rejections are traversed.

The claimed invention is not anticipated under §102 unless each and every element of the claimed invention is found in the prior art. *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986). Here, claim 1 calls for a drip edge, a fascia cover mounting bracket, and a fascia cover. The drip edge is adapted to be mounted to a roof, the fascia cover mounting bracket is adapted to be mounted to a fascia board, and the fascia cover is adapted to be mounted to the fascia cover mounting bracket. Claim 12 calls for a structure having a roof and fascia board, with a drip edge mounted to the roof, a fascia cover for covering the fascia board, and a fascia cover mounting bracket mounted to the fascia board.

Rapp discloses a single arm hanger 10 and a dual arm hanger 50. The single arm hanger 10 has a stiff hook 12 at the lower end of a stiff depending leg 14 and a mounting arm 20 with resiliently deformable transversely extending fins 25 that angularly project outward and backward toward the hook 12. In Fig. 4, the hanger 10 is shown between roof shingles 40 and a metal drip edge 42. The dual arm hanger 50 has a hook 52 at the lower end of a depending leg 54 and cantilevered arms 62, 64 with resiliently deformable transversely extending fins 72, 74 that angularly project inward and backward toward the hook 52. In Fig. 5, the hanger 50 is shown mounted to a flange 80 of a metal fascia cover (unnumbered) and adjacent to a metal soffit 82.

With respect, the Examiner's characterization of the hanger 10 in the Rapp patent as a "drip edge" is erroneous. As shown in Figure 4 of Rapp and explained at Col 4, ll. 63-67, the shingles 40 are over the drip edge 42 along the rake 43 of the roof and form face-to-face surfaces for receiving the single arm mounting hanger 10. Therefore, Rapp clearly teaches the hanger 10 and drip edge 42 as two separate and distinct entities. The hanger 10 is not the claimed drip edge.

The assertions that Rapp teaches “a fascia cover mounting bracket 50 mounted to an adjacent fascia board 43” and “a fascia cover 80 mounted on the bracket in a manner to be independently moveable relative to the fascia bracket” are also erroneous. According to Rapp, the dual armed hanger 50 is not mounted to a fascia board. It is mounted on a flange 80 (Col 5, ll. 47-50), which appears to be a part of the fascia cover (unnumbered). It is a hanger for holding ornamental lights and is mounted to the fascia cover. It is not the converse where the fascia cover mounting bracket is mounted to the fascia board and the fascia cover is mounted to the fascia cover mounting bracket. Moreover, there is nothing in Rapp to suggest that the fascia cover (unnumbered) is mounted in manner to be independently moveable relative to the fascia bracket. It is a metal fascia cover as illustrated in Fig. 5, and has all the earmarks of being a conventional fascia cover that is mounted directly to the fascia board. That is why it is convenient and stable to mount the hanger 50 to it. A metal fascia cover nailed to the fascia board is not “mounted on the bracket in a manner to be independently moveable relative to the fascia bracket” as claimed.

Given the hangers 10, 50 in the Rapp patent are not a drip edge or a mounting bracket respectively, and Rapp does not disclose or teach a fascia cover mounting bracket adapted to be mounted to an adjacent fascia board, or a fascia cover adapted to be mounted to the fascia cover mounting bracket in a manner to be independently moveable relative to the fascia cover mounting bracket, whereby the fascia cover will not buckle with thermal changes, it cannot be said that the Rapp patent anticipates claims 1 and 12. Furthermore, because the Rapp patent does not anticipate claims 1 and 12, it likewise does not anticipate claims 2, 5, 7-9, 11, 13, and 16-20, all of which depend directly or indirectly from claims 1 or 12.

Rejections under 35 U.S.C. §103

Claims 3-4, 6, and 14-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rapp in view of Mills, Jr. (6845590). The rejection is respectfully traversed.

The combination of the Rapp patent and the Mills, Jr. patent is traversed. There is no teaching, suggestion or motivation to combine the two references. With respect, the Examiner's characterization of the hangers 10, 50 in the Rapp patent as a drip edge and a mounting bracket respectfully is erroneous. As discussed previously, the hanger 10 has a hook 12 for hanging various items (Col 4, ll. 63-67). This is not a purpose of a drip edge, as a drip edge is intended to protect the structure of the roof by directing water away from the eave of the roof and its

component parts, such as a fascia board. Additionally, a fascia cover mounting bracket as claimed is mounted to the fascia board and further serves as a means of mounting the fascia cover. As discussed above, Rapp teaches at most the converse: mounting a hanger to a metal fascia cover that is fixedly mounted to the fascia board. Nothing in Rapp suggests using an alternate material for the drip edge or the fascia cover. Thus, it would not have been obvious to one of ordinary skill in the art to use any material known in the art for the drip edge and fascia system, nor would it have been obvious to construct the drip edge and fascia cover of metal/aluminum, as Rapp does not teach or suggest the drip edge and fascia system of the invention.

Mills, Jr. teaches coloring the fascia. However, as discussed previously, the combination would not reach the claimed invention as Rapp does not teach or suggest the system of the invention. Without any teaching, suggestion or motivation to make the alleged combination, one cannot say that the combination would have been obvious.

Claims 3-4, 6, and 14-15 also depend directly or indirectly from claim 1 or claim 12, and are therefore also patentable over Rapp and Mills for the reasons stated above. The rejections are traversed.

Rejections Based on Double Patenting

Claims 1-2, 4-9, and 11-20 stand provisionally rejected under 35 U.S.C. §101 as claiming the same invention of claims 1-6, 15-19, and 23-30 of copending U.S. application no. 10/904,679. The rejections are traversed.

Claims 1 and 23 of U.S. application no. 10/904,679 require a drip edge with a frontal piece and a mounting flange, with the mounting flange having a flexible portion and the frontal piece having a different rigidity than the mounting flange, so the frontal piece can move relative to the roof. Claim 15 of the copending application is amended to include similar limitations. Claims 1 and 12 of the instant application require a drip edge, a fascia cover mounting bracket, and a fascia cover, where the fascia cover is mounted (or mountable) to the fascia cover mounting bracket so as to be movable relative to the bracket. Thus, the invention of the copending application lacks a fascia cover mounting bracket and a fascia cover. Conversely, only a few dependant claims of the instant application require a mounting flange and frontal piece on the drip edge, and those are in combination with the elements of the independent claims. The inventions are different.

Claims 3 and 4 stand provisionally rejected as being unpatentable over claims 1 and 2 of the copending application based on obviousness type double patenting. As discussed above, nothing in any reference suggests using an alternate material for the drip edge or the fascia cover. But that has nothing to do with an obviousness type double patenting rejection. The inventions of the two applications are different and nothing would render one obvious over the other.

Applicants thank the Examiner for the determination of allowability of claim 10. But inasmuch as all claims are now believed allowable over the art of record, early notice of allowability is respectfully requested. Any questions about the foregoing can be directed to the undersigned and the Examiner is invited to resolve any remaining issues by telephone or by email.

Respectfully submitted,

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/Joel E Bair/

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